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SEP 1 9 2006

Appn. No. 09/939,865

Reuben Hertz

Applicant: Title:

HANDHELD APPARATUS FOR DELIVERY OF PARTICULATE

MATTER WITH DIRECTIONAL FLOW CONTROL

Examiner/GAU: Robert Rose / 3723

Official Fax Number: 571 273-8300

Filed: August 27, 2001

Tel: (571) 272-4494

Certificate of Transmission

Certificate of Transmission: I certify that on the date below this document and referenced attachments, if any, will be transmitted via facsimile to:

571 273-8300

Signed:

Allen Hertz, Reg. No. 50,942

Date transmitted: September 19th, 2006

Attachments:

Petition to Withdraw Holding of Abandonment (05 pages)

Replacement Part B Fee Transmittal respective to 09/939,865 (1 page)

Exhibit A: Part B Transmittal as originally submitted (1 page)

Exhibit B: Issue Fee payment and Return Postcard as originally submitted (1 page)

Exhibit C: Return postcard receipt as originally received (1 page)

Certificate of Transmission (this page)

p.02

SEP 1 9 2006

Application Ser. No. 09/939,865

Petition to Withhold Abandonment

Filed: August 27, 2001

Appn. No. 09/939,865

Reuben Hertz

Applicant: Title:

HANDHELD APPARATUS FOR DELIVERY OF PARTICULATE

MATTER WITH DIRECTIONAL FLOW CONTROL

Examiner/GAU: Robert Rose / 3723 Official Fax Number: 571 273-8300

Tel: (571) 272-4494

Transmitted on: 2006, September 19

Petition to Withdraw Holding of Abandonment

Mall Stop: Office of Publications Commissioner of Patents and Trademarks Patent and Trademark Office **United Stated Department of Commerce** P.O. Box 1450 Alexandria, VA 22313-1450

Office of Petitions Fax Number: 571 273-0025

SIR:

In response to the Notice of Abandonment Malled 2006, August 30th, Applicant requests to Petition to revive the subject application based upon the following:

Applicant submitted issues fees for the subject application and submitted the incorrect application numbers. Applicant submitted issue fees for the subject application, but inadvertently submitted the fees on papers identified for a previously Issued patent, Application number 10/704,517.

Applicant has attached copies of all papers submitted on June 07, 2006 for payment of Issue fees and publication fees which were incorrectly identifying a previously issued patent, USPN 10/704,517. Attached are Part B Fees Transmittal

Petition to Withhold Abandonment

identifying the certificate of mailing being June 07, 2006, a copy of the check submitted on 6-7-06 for \$1000 referencing Application No. 10/704,517, and the return postcard as malled identifying the check and date of deposit as such. Also attached is a copy of the return postcard as received with an OIPE stamp dated Jun 12, 2006.

Applicant inadvertently used the incorrect part B transmittal and should have used the one reflecting the 09/939,865 application.

Applicant has attached a completed Part B Fee Transmittal respective to the subject application for completeness of the file.

Applicant respectfully petitions to:

- 1) Withdraw holding of abandonment of Application No. 09/939,865.
- 2) Apply the fees submitted on June 07, 2006 from Application No. 10/704,517 to Application No. 09/939,865.

Applicant earnestly believes that Applicant has submitted evidence that the payment was made in a timely manner (June 07, 2006) for a due date of July 28th, 2006 as follows:

Page 2 of 5

Petition to Withhold Abandonment

Exhibit A: Part B Fee Transmittal dated June 07, 2006 to 10/704,517 which had already Issued as USPN 6,951,505 on October 4th, 2005.

Exhibit B: Check number 3387 in the amount of \$1000 and respective return postcard stating date of deposit on June 07, 2006.

Exhibit C: The respective return postcard receipt stating date of receipt by the USPTO on June 12, 2006.

Applicant has confirmed with the Office of Petitions that issue fee payment was received and placed against Application No. 10/704,517 in accordance with the submitted documentation. Applicant notes that Application No. 10/704,517 had issued on October 4th, 2005 and that the subject issue fees were paid on June 07th, 2006.

Applicant respectfully requests the Office of Petitions grant this petition, transfer the Issue fees from Application No. 10/704,517 to Application No. 09/939,865, and withdraw the holding of abandonment of Application No. 09/939,865.

Petition to Withhold Abandonment

CONCLUSIONS

Applicant believes the submitted petition presents sufficient evidence that the Applicant made a bonafide attempt to submit the issue fee and respective publication fee for the subject application prior to the due date of July 28th, 2006.

Applicant has submitted a replacement form, Part B Fee Transmittal respective to Application No. 09/939,865.

The Office has established a shortened statutory period of **two (2) months** for response to the **Notice of Abandonment** mailed on August 30th, 2006. Applicant has responded to the Office Action on or before October 30th, 2006 with a proper certificate of correspondence, being submitted in less than **Two (2) Months** from the date of mailing of the subject **Notice of Abandonment**. Therefore, the Applicant believes the response is timely. Applicant believes the response provided is complete.

If the Examiner believes that there are any informalities that can be corrected by Examiner's amendment, a telephone call to the Agent of Record (Allen Hertz) at (561) 883-0115 (Office)(Please leave a message) or (561) 716-3915 (Cell phone) is respectfully solicited.

Page 4 of 5

Petition to Withhold Abandonment

Respectfully submitted,

Alien Dirlertz

Agent of Record, Reg. No.: 50,942

Please submit all correspondence concerning this patent application to:

Allen D. Hertz

Registration Number: 50,942



PATENT & TRADEMARK OFFICE

Customer Number: 31877 12784 Tulipwood Circle Boca Raton, Florida 33428 Tel / Fax: 561/683-0115

Cell: 561/716-3915

Page 5 of 6

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SEP 1 9 2006

PART B. FEF(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mall Stop ISSUE FEE

Commissioner for Patents P.O. Bot 1450 Alexandria, Virginio 22313-1450 or Fax (571)-273-2885

INSTRUCTIONS. This form should be used for transmitting the ISSTS FLE and PLRITEATHIN DEF HI required thooks I through 5 should be completed who appropriate. All faither corresponding the Parent, advance orders and nontleasure of contentance less will be availed in the current correspondence address indigently below corrected below or three-feel information, the tax specifying a new correspondence address, and or the minimum a separate "FFD ADDRESS" indigently in the corrected below or three-feel information and the correspondence address, and or the minimum a separate "FFD ADDRESS". maintenance fee notificatives. Sinc. A certificing of mailing can only be used for domestic mailings of t CLUBACKED BEHT SOURCE SEED SHIPLE BOOK OF TORONG COMMEND IN MACHINETICS. Legist Fransmital. This confidence cannot be used for any other accompanys appears. Each of hippart report such as an assignment to found drawing, militare its own confidence of mailing or fransmission. 44 28 2 49 VI. Certificate of Mailing or Transmission Legrano certas that the Freisz Francountal as he in deposited with the Freisz Francountal as he ing deposited with the Freisz Francountal as he ing deposited with the Freisz Research for the Staff Stop 1880/F FEE address above, so being focusing peritual to the USPFO (571) 273-2888, or the date indicated below ALLEN D. HERTZ 12784 TOLIPWOOD CIRCLE BOCA RATON, FL 33428 of September School Allen D. Hertz the product 16.11 2006 September 1 CONTRACTOR NO enco saminasvija ott ኤ. የም<u>ርኒክ እ</u>ገጽ**ዘ** ሕዝብ **አ**ዛብ 140 (00.14.41) group to a there were 1740 Reuben Herte **698-27 Entry** SH 439,865 THE FOR INVENTION HANDIG TO APPARALLS FOR DEFINABLY OF PARTICLE AT MATERIANTH DIRECTION AFFICIAL CONTROL 10412: DOM: e processia TOURS DES SORE 1661 1 121 SPPCS 45 Pc SMALL (SMI) OF 24 2006 **SELECT** 44.113 5 Tla 2 facipates (sacion) 315 1811 525 1 1 444.41 14 1.444 LANNENER 451 имини ROSE, ROBERT A 1. Change of correspondence address or unheatten of Tee Address CFIC (1994). Cities printing out the purch fixed pages for Allen D. Hertz rightly hangs of opin 3 registered patent atterneys or agents Old, afterfrontely. —If there of correspondence address to rithings of Correspondence againsts form 1970 St. 1225 another. (2) the name of a single from this ing as a member is top over the distinct distinction of up to They Address' indication for They Address' Indication for a PTCF STEAR 27, Res (0.502) or more recent) altoched. Use of a Customer a registered puteril atterneys or agents. If no name is listed, no name will be printed. Number is required. LASSIGNLE NAME AND RESIDENCE DATA TO HE PRINTED ON THE PATENT CORNER MYST PLEASE NOTE, Unless an assigned is identified below, no assigned data will appear on the patent. If an issigned is not field below, the document has been filled a recordening as set both in 37 CFR 2-11. Completion of this form is NOTE, substitute for Plang as assignment. GORESIDENCE (CITY LIGISTATE OR COUNTRY) (A) NAMEOU ASSIGNATION I findly that I Corporate it as other private promocnitive I Government Please check the appropriate assignee entegory or entegories (will a size orinted in the nation). 30, Paynem of Leave in. The foliatione tests) are enclosed 🔀 is aback in the aparent of the feets) is enclosed. XI toping here I Payment by credit cord in one offer 2018 is another 🚨 Politication beat Selsmill entity special (permitted) If the Director is hereby authorized by charge me required beautive or gredit any overpayment, to Advance Opter - Pod Copies to was evant conducted of this form. Deposit Account Norther. 5 Change in Entity Status (from signs achested above) Applicant is no longer claiming SM VLC ENTRY states. Sec. URLER E2 (pp. 2) La Applicant claims SSIACCES THY status, See 37 CFR 1/27 The Director of the \ SPFO is required to apply the Issue Lee and Policiana a Use of anyther to the apply any previously paid issue Lee to the application identified above SOFF. The Issue Lee and Problemton Dec (if required will not be necessarily than the angle only a previously of agent of the assignce of other party marks as shown by the records of the Universitate Posterior and Universitate P September 19, 2008 111 Authorized Stenature Allen D. Hertz 50,942 Registration So. Aspeal or protect matter

This collection of information is required by 17 CFR 1.311. The information is required to obtain or regain a benefit by the radius which is to the analytic that USP1O to prove an application. Combining in giverned by 35 USP, 122 and 27 UPC 1.15. This collection is estimated in case the minutes to complete, unisating gathering, programmed a submitting the completed application form to the USP1O time will vary depending upon the individual case. May continued so the analytic of one you require to complete, form and or suggestions for reducing this bottom should be sent to the Uniformation Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P. This 1459, Alexandria, Virginia 22313-1450. DO NOT SUNDICES OR COMPLETED FURMS TO THIS ADDRESS. SUNDICE Commissions for Pereins, P.O. Rox 12-Steambria, Virginia 22313-1450.

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Appendix A

Part B Fee Transmittal
Originally Submitted on June 07, 2006

p.09

SEP 1 9 2006

PART D = FER(6) THANSMITTAL Mail Stop ISSUE FEE Complete and send this form, together with applicable fcc(s), to: Mail Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 (703) 746-4000 ог <u>Гах</u> INSTRUCTIONS. This form should be used for transmining the ISSUE FEE and PUBLICATION FEE (if required). Blocks I through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence achieves as indicated unkess corrected below or directed otherwise in Block I, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for manageness for mailing attents. Note: A certificate of mailing can only be used for domestic mallings of the Fec(s) Transmittal. This certificate cannot be used for any other accumpanying papers, tuch additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission. CONCRETE CONFIGURATIONS IN VARIABLE (1992) 1 For sulvey states of sections 31877 75'X1 05.03 2005 Certificate of Multime or Transmission t hereby centry that this Fee(s) Transmittant is testing deposited with the United States Postal Service with sufficient postage for first class small in an envelope addressed to the Mail Stop ISSUE FEE addresse above, or being furnishing transmitted to the USPTO (703) 746-4000, on the date indicated below ALLEN D. HERTZ 12784 TULIPWOOD CIRCLE BOCA RATON, FL 33428 Alley Dr. Hertz fighter quit name) D ١١٠٠١٠ محولتزا June 07, 2006 (Pore CONTIRMATION NO. STRUT MANGELS BOYEN LODE APPLICATION NO THERMS (WATE ADDRESS DOCKER NO 1047794,517 11/08/2003 Reghen Henz 41155 TITLE OF INVENTION, METHOD USING HANDHELD APPARATUS FOR DELIVERY OF PARTICULATE MATTER APPLN, TYPE SMALL ENTRY PROPERTY PUBLICATION THE TOTAL FEE(8) DUE DATE DUE YES \$700 08/02/2003 \$300 \$100m nonggoy isional ENAMINER ART UNIT CLASS-SUHCLASS ROSE, ROBERT A 451-038000 Change of correspondence address or indication of "Fee Address" (37 CFR 1.563). 2. For printing on the patent front page, list Allen D. Hertz (1) the names of up to 3 registered patent attorneys Change of correspondence address (or Change of Correspondence Address form P) O/810/122) attached. or agents OR, alternatively, (2) the name of a single from (having as a member a registered attorney of agent) and the names of up to 2 registered patent attorneys or agents. If no name is fisted, no name will be printed. "Tree Address" indication (or "Fee Address" Indication form 1710/SIV47; Rev 03-02 or more recent) attached. Use of a Customer Sumber is required. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type) PLEASE NOTE: Unless on assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filted for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filling on assignment. (A) NAME OF ASSIGNEE (B) RESIDENCH: (CHY wid STATE OR COUNTRY) Plance check the appropriate assigned untegery or categories (will not be printed on the patent): 4a. The following fee(s) are emphysed. 4b. Paymen of Fee(s): 🔼 lisue Fee A check in the amount of the feets as enclosed. Payment by credit card. Form PTO-2038. Is attached.

Please check the appropriate essigned estegory or caregories (will not be printed on the patent): Individual Corporation or other private group entity Overment

4a. The following fee(s) are enclosed.

4b. Payment of Pee(s):

A check in the amount of the fee(s) is enclosed.

Payment by credit eard. Form PTO-2038 is attached.

The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number (enclose an extra copy of this form).

5. Change in Earlty Status (from status indicated above)

In Applicant chains SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if ony) or to re-apply any previously paid issue fee to the application identified above, NOTIO: The Issue Fee and Publications Fee (if ony) or to re-apply any previously paid issue fee to the application identified above, NOTIO: The Issue Fee and Publications Fee (if ony) or to re-apply any previously paid issue fee to the application identified above, NOTIO: The Issue Fee and Publications Fee (if ony) or to re-apply any previously paid issue fee to the application identified above, NOTIO: The Issue Fee and Publications Fee (if ony) or to re-apply any previously paid issue fee to the application identified above, NOTIO: The Issue Fee and Publications Fee (if ony) or to re-apply any previously paid issue fee to the application identified above, NOTIO: The Issue Fee and Publications Fee (if ony) or to re-apply any previously paid issue fee to the application identified above, NOTIO: The Issue Fee and Publications Fee (if ony) or to re-apply any previously paid issue fee to the application identified above, NOTIO: The Issue Fee and Publications Fee (if ony) or to re-apply any previously paid issue fee to the assigned or other party in other seconds of the Issue Fee and Publicatio

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PTOE-85 (Rev. 12-04) Approved for use through 04 MC2002.

OMB 0651-0033 U.S. Patent and Tradamark Office: U.S. DEPARTMENT OF COMMERCE

Appendix B

Issue Fee Payment, Check No. 3387 for \$1000 Return Postcard

All as Originally Submitted on June 07, 2006

ALLEN HERTZ	·
KIM HERTZ	3367
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Please acknowledge receipt of the following by affixing hereon the Patent and Trademark Office date stamp and returning this card to my office.

Applicant: Serial No.:

Reuben Hertz

10/704,517

For:

METHOD USING HANDHELD APPARATUS FOR

DELIVERY OF PARTICULATE MATTER

Filea:

November 08, 2003

Issue Fee

Date of Deposit: June 07, 2006

Mail: Enclosures:

First Class Mail Issue Fee Transmittel (1 Page):

Check 3387 for \$1000,

Return Postcard

Appendix C

Return Postcard Receipt

All as Stamped on June 12, 2006

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Applicant

Reuben Hertz

Scrial No.: 10/704,517

For:

METHOD USING HANDHELD APPARATUS FOR

DELIVERY OF PARTICULATE MATTER

Filed:

November 08, 2003

Issue Fee

Date of Deposit. June 07, 2006

Mail: Enclosures: First Class Mail Issue Fee Transmittal (1 Page):

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